

# HOUSE BILL REPORT

## HB 1315

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### As Passed Legislature

**Title:** An act relating to disclosure of information related to real estate excise taxes.

**Brief Description:** Authorizing the disclosure of information related to real estate excise taxes.

**Sponsors:** By Representatives Tom, Clibborn, Jarrett, Hunter, Priest, Lantz, Conway, Rodne, Orcutt and Linville.

#### Brief History:

##### Committee Activity:

Finance: 2/2/05, 2/23/05 [DP].

##### Floor Activity:

Passed House: 3/8/05, 97-0.

Senate Amended.

Passed Senate: 4/14/05, 40-0.

House Concurred.

Passed House: 4/19/05, 97-1.

Passed Legislature.

#### Brief Summary of Bill

- Exempts from confidentiality requirements any information in the possession of the Department of Revenue regarding real estate excise tax.
- Requires Secretary of State to adopt rules requiring reports of transfers of controlling interest in real property as part of annual reports.

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#### HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass. Signed by 9 members: Representatives McIntire, Chair; Hunter, Vice Chair; Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern, Conway, Ericksen, Hasegawa and Santos.

**Staff:** Bob Longman (786-7139).

#### Background:

The real estate excise tax is imposed on each sale of real property. The state tax rate is 1.28 percent. Additional local rates are allowed. The combined state and local rate in most areas is 1.78 percent or less. The highest rate is 2.78 percent in the City of Friday Harbor.

The real estate excise tax applies when a sale occurs. A sale is defined as any transfer of the ownership of or title to real property, or any transfer of a controlling interest in a corporation or other entity that owns real property. A controlling interest is 50 percent or more of the voting power of the stock of a corporation, or 50 percent or more of capital, profits, or beneficial interest in a partnership, association, trust, or other entity.

Several exemptions are allowed from the real estate excise tax, including gifts, inheritances, and transfers to a corporation or partnership that is wholly owned by the transferor, the transferor's spouse, or the transferor's children.

When real property is transferred by deed, the tax is paid at the time the deed is recorded in the county records and the tax is collected by the county treasurer. The county treasurer distributes the tax revenue to the state and local jurisdictions imposing the tax. When the control of real property is transferred via a change in the controlling interest in a corporation or other entity, real estate excise tax is paid to the Department of Revenue, which distributes the local share of tax revenue to the appropriate jurisdictions.

When real estate excise tax is paid to the county treasurer, the amount of tax paid and information relating to the transaction are part of the public record. In contrast, excise tax information received from taxpayers by the Department of Revenue is generally protected by confidentiality requirements. The information cannot be disclosed to the public, except as part of statistical reports that do not reveal the identity of a particular taxpayer or transaction.

Most corporations organized under Washington law and operating in Washington are required to file annual reports with the Secretary of State. Annual reports must include information regarding the registered office and registered agent of the corporation; the principal office of any foreign corporation; a statement of the character of the affairs in which the corporation is engaged; names and addresses of the directors and officers; and the unified business identifier number. Certain partnerships are also required to apprise the Secretary of State of changes in names and addresses of partners and offices.

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### **Summary of Bill:**

Information in the possession of the Department of Revenue regarding real estate excise tax is not confidential.

The Secretary of State must adopt rules requiring entities which are required to file annual reports to disclose any transfer of the controlling interest of the entity and also disclose any interest in real property. The Secretary of State must furnish this information to the Department of Revenue for the purpose of tracking the transfer of interests in real property and determining when real estate excise tax is due. If an entity does not disclose a transfer of a controlling interest which results in real estate excise tax becoming due, the entity is subject to interest and penalties for late payment as well as a penalty for evasion of the tax.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** There have been a few cases where the control of real estate has been transferred through a limited liability company. Because this type of transaction is reported to the state, rather than the county treasurer, information about the transfer is not available to the public or to local government officials. These are very large transactions, involving super high-end homes. The real estate excise tax should be fairly applied to large transactions as well as small transactions, and if tax is not paid, people should be able to see why not. There is concern that some transactions have escaped taxation. Having the information publicly available is the one way to know for sure. This bill does not increase taxes or create new taxes. There is no burden on taxpayers. It simply opens to public inspection information that is already in the hands of the Department of Revenue.

**Testimony Against:** None.

**Persons Testifying:** Representative Tom, prime sponsor; and Bob Mitchell, Washington Association of Realtors.

**Persons Signed In To Testify But Not Testifying:** None.